WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

CHARLEY BASKETT, *Applicant*

vs.

COMPASS GROUP dba CANTEEN VENDING SERVICES;
AIU INSURANCE COMPANY, administered by SEDGWICK, *Defendants*

Adjudication Number: ADJ15211632
San Diego District Office

OPINION AND ORDER GRANTING PETITION FOR RECONSIDERATION

Applicant seeks reconsideration of the April 14, 2026 Findings and Order (F&O), wherein the workers' compensation administrative law judge (WCJ) found that a prior utilization review (UR) decision denying authorization for a requested treatment barred a subsequent request for authorization (RFA) for the same treatment submitted on December 4, 2025. The WCJ further determined that the UR decision issued on December 8, 2025 regarding authorization for a wheelchair accessible hotel room was untimely but that the requested services were not medically necessary.

Applicant contends that the two RFAs in question did not request the same treatment, and that even if they were the same, the evidence established a change in the facts material to the prior UR decision warranting a renewed consideration of the medical necessity of the requested treatment. Applicant agrees with the WCJ that the December 8, 2025 UR decision was untimely but asserts that the evidence establishes the medical necessity of the requested treatment.

We have not received an answer from any party. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

We have considered the Petition for Reconsideration, and the contents of the Report, and we have reviewed the record in this matter. Based upon our preliminary review of the record, we will grant applicant's Petition for Reconsideration. Our order granting the Petition for

Reconsideration is not a final order, and we will order that a final decision after reconsideration is deferred pending further review of the merits of the Petition for Reconsideration and further consideration of the entire record in light of the applicable statutory and decisional law. Once a final decision after reconsideration is issued by the Appeals Board, any aggrieved person may timely seek a writ of review pursuant to Labor Code[1] section 5950 et seq.

I.

Former section 5909 provided that a petition for reconsideration was deemed denied unless the Appeals Board acted on the petition within 60 days from the date of filing. (Lab. Code, § 5909.) Effective July 2, 2024, section 5909 was amended to state in relevant part that:

> (a) A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 60 days from the date a trial judge transmits a case to the appeals board.
>
> (b)
>
> (1) When a trial judge transmits a case to the appeals board, the trial judge shall provide notice to the parties of the case and the appeals board.
>
> (2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

Under section 5909(a), the Appeals Board must act on a petition for reconsideration within 60 days of transmission of the case to the Appeals Board. Transmission is reflected in Events in the Electronic Adjudication Management System (EAMS). Specifically, in Case Events, under Event Description is the phrase "Sent to Recon" and under Additional Information is the phrase "The case is sent to the Recon board."

Here, according to Events, the case was transmitted to the Appeals Board on May 1, 2026, and 60 days from the date of transmission is June 30, 2026. This decision is issued by or on June 30, 2026, so that we have timely acted on the petition as required by section 5909(a).

Section 5909(b)(1) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are

[1] All further references are to the Labor Code unless otherwise noted.

notified of the accurate date for the commencement of the 60-day period for the Appeals Board to act on a petition. Section 5909(b)(2) provides that service of the Report and Recommendation shall be notice of transmission.

Here, according to the proof of service for the Report and Recommendation by the workers' compensation administrative law judge, the Report was served on May 1, 2026, and the case was transmitted to the Appeals Board on May 1, 2026. Service of the Report and transmission of the case to the Appeals Board occurred on the same day. Thus, we conclude that the parties were provided with the notice of transmission required by section 5909(b)(1) because service of the Report in compliance with section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on May 1, 2026.

II.

We highlight the following factual background and legal principles that may be relevant to our review of this matter:

Applicant sustained admitted injury to his head and brain while employed as a Field Technician by defendant Compass Group dba Canteen Vending Services on September 20, 2021. Applicant has selected Thomas Schweller, M.D., as his primary treating physician (PTP).

On January 24, 2025, Dr. Schweller prepared a narrative report and request for authorization. (Ex. A, Report of Thomas Schweller, M.D., dated January 24, 2025.) Applicant's diagnoses included closed head injury; post-concussion syndrome; migraines; decreased balance; decreased sleep; decreased cognition; and decreased mood. (*Id.* at p. 1.) Dr. Schweller noted that applicant was in emotional distress, and requested authorization for several treatment modalities, including "sessions with a psychologist, 3x/week for 12 weeks." (*Id.* at p. 2.) In addition, and in relevant part, Dr. Schweller requested:

> 2. Wheelchair Accessible Van with Lift - Purchase: There have been numerous occasions when appointments with me were canceled due to transportation not being arranged for my patient. He now receives 2-caregivers 24/7 to ensure his safety and to provide assistance with ADLs/IADLs; as well as being certified last month for an RN 1x/week for Peri-care; is wheelchair dependent outside his residence; is unable/difficulties to assist with transfers; and has fallen numerous times in the past. It is medically reasonable and necessary that Charlie be provided with a wheelchair accessible van with motorized lift purchase

so that he is not a prisoner in his home; has the freedom to go to the pharmacy; grocery store or run errands with his 2-caregivers when he wants.

3. ADA Housing: Mr. Baskett is currently in a small apartment that is not ADA compliant as the doorways and hallways are too narrow which prevents him from using his motorized vehicle inside his residence. It takes two caregivers to help him maneuver which creates a great risk of falling. I am recommending ADA housing be provided.

(*Id.* at pp. 2-3.)

On February 10, 2025, Dr. Schweller submitted a Form RFA with the January 24, 2025 narrative report as an attachment. (Ex. B, Request for Authorization, dated February 10, 2025.)

On February 17, 2025, defendant's UR physician advisor modified and conditionally certified the request for psychological treatment. (Ex. C, UR Determination, dated February 17, 2025.) However, the request for both ADA Housing and for a wheelchair accessible van were denied. The physician reviewer noted that neither the MTUS-ACOEM Guidelines nor the Official Disability Guidelines address the issue of ADA-compliant housing. The UR reviewer concluded "there is no medical purpose for the costly and requested device(s), vehicle, and housing changes … [t]here is no exam documented … [i]t is not entirely clear that these costly services are indicated … [t]hus, the request is not medically necessary." (*Id.* at p. 11.)

On February 28, 2025, applicant requested review of the UR decision through the Independent Medical Review (IMR) process.

On March 26, 2025, IMR issued its determination. The decision cover letter indicates that the UR decision was "upheld," and explains that "[t]his means we decided that none of the disputed items/services are medically necessary and appropriate." (Ex. D, IMR Determination Letter, dated March 26, 2025.) However, the "IMR Decision Summary" indicates that the question of applicant's entitlement to ADA Housing is "not medically determinable." (*Id.* at p. 3.) Similarly, the question of whether applicant required a wheelchair accessible van was "not medically determinable." (*Ibid*.) Regarding the request for ADA housing, the IMR physician observed:

> The medical necessity of the request for Americans with disabilities act (ADA) housing cannot be determined under Labor Code section 4610.5(c)(2). This issue should, therefore, be returned to the claims administrator to determine whether the request is otherwise necessary for the injured worker. Any dispute(s) arising between the claims administrator and the injured worker should be resolved at the Workers' Compensation Appeals Board.

(*Id.* at p. 3.)

The IMR physician similarly concluded that "the medical necessity of the request for Wheelchair accessible van with lift for purchase cannot be determined under Labor Code section 4610.5(c)(2)," and that the issue should be evaluated by the claims administrator, or before the Appeals Board in the event of further dispute. (*Ibid*.)

On November 21, 2025, Charity Weidayer, R.N., undertook an evaluation of applicant's home healthcare needs, and prepared a "Personal Care Assistance Service Plan." (Ex. 5, Personal Care Assistance Service Plan, dated November 21, 2025.) Applicant was noted to be status post traumatic brain injury, and in need of assistance in most of his activities of daily living (ADLs), with the evaluator recommending continues 24-hour daily support care.

On December 1, 2025, PTP Dr. Schweller issued a supplemental report that included a "Request for Authorization on an Expedited Basis." (Ex. 1, Report of Thomas Schweller, M.D., dated December 1, 2025, at p. 1.) The report opens with the observation that the physician last saw applicant on November 7, 2025, "via a telemedicine appointment, as transportation has not been consistently provided to my patient." (*Ibid*.) The narrative report requests authorization for the provision of (1) two caregivers providing 24-hour-per-day, 7-days-per-week attendant care for 120 days; (2) registered nurse services twice daily for 120-days medication administration and vital signs monitoring; (3) purchase of side-entry mobility van with hydraulic lift system to safely and consistently transport Mr. Basett; and (4) wheelchair-accessible hotel room accommodation due to non-ADA compliant current housing. (*Ibid.*) The report sets out the physician's specialization in traumatic brain injuries, and the history of applicant's injury and resulting treatment. (*Id.* at p. 2.) The report reviews the available medical reporting from applicant's various treating physicians and observes that the medical consensus is that applicant is permanently and totally disabled. (*Id.* at p. 4.) The report further documents in details applicant's current clinical status and functional limitations, including compromised ADLs. (*Id.* at p. 5.) With respect to the requested treatment, the PTP observes that applicant's home is not ADA-compliant and represented a "documented safety risk." (*Id.* at p. 19.) The report discusses the evidence-based guidelines that support the provision of the requested treatment and explains why an expedited decision is necessary and appropriate. (*Id.* at p. 7.)

On December 4, 2025, Dr. Schweller submitted a corresponding RFA for "Wheelchair - Accessible Room Accommodation for 120 days." (Ex. 2, Request for Authorization, dated December 4, 2025.)

On December 8, 2025, UR physician Andrew Nava, M.D., non-certified the entirety of the medical treatment requested by Dr. Schweller, including ongoing home healthcare support, nursing services twice per day, a wheelchair accessible van, and wheelchair accessible hotel room accommodation for 120 days. (Ex. 4, Utilization Review Determination, dated December 8, 2025.) The reviewer noted that "there are no updated physical examination findings documented by the requesting AP to support said request as the last visit was on 11/17/25 and was via telemedicine." (*Id.* at p. 9.)

On March 2, 2026, the parties proceeded to trial and placed in issue whether the December 8, 2025 UR determination was timely, and if the decision was not timely, whether the requested treatment of a wheelchair accessible hotel room was reasonable and necessary. The parties also framed the issue of whether the December 4, 2025 RFA was itself precluded because the same treatment was denied or modified by the earlier February 17, 2025 RFA. The parties submitted the matter for decision on the documentary record, and the WCJ ordered the matter submitted the same day.

On April 14, 2026, the WCJ issued his F&O, determining in relevant part that the December 4, 2025 RFA is barred by Labor Code section 4610(k) based upon the utilization review decision dated February 17, 2025. (Finding of Fact No. 1.) The WCJ also determined that while the December 8, 2025 UR decision was untimely because it was not made within 72 hours of receipt by defendant, applicant nonetheless did not meet his burden of proof to establish the medical necessity of a wheelchair accessible hotel room. (Findings of Fact, Nos. 2-3.)

Applicant's Petition contends that the February 10, 2025 and December 4, 2025 RFAs do not reflect the same medical treatment request, and that section 4610(k) is therefore inapplicable. (Petition, at p. 4:11.) Applicant asserts in the alternative that the record establishes a change in the facts material to the prior UR decision satisfying the requirement of section 4610(k) and requiring that the December 4, 2025 be submitted for UR. (*Id.* at p. 7:6.) Applicant also contends that insofar as the WCJ has determined that defendant's December 8, 2025 UR decision was not timely, the reporting of Dr. Schweller establishes the medical necessity of the requested treatment. (*Id.* at p. 10:9.)

The WCJ's Report asserts that the gravamen of the February 10, 2025 and December 4, 2025 RFAs are essentially the same, and that a change in the terminology used by the treating physician does not fundamentally alter the nature of the underlying request. (Report, at pp. 4-5.) The WCJ also identified no material change in the facts or circumstances material to the February 17, 2025 UR decision, concluding that "[i]nstead of documenting a change in condition material to the utilization review decision, the evidence cited by applicant documents that his condition remains essentially the same and therefore the evidence does not satisfy the exception set forth in Labor Code section 4610(k)." (*Id.* at p. 10.) Finally, the WCJ's report contends that reporting of Dr. Schweller is conclusory and internally inconsistent and does not establish the medical necessity of the requested treatment. (*Id.* at p. 13-14.)

In *Ramirez v. Workers' Comp. Appeals Bd.* (1970) 10 Cal.App.3d 227 [35 Cal.Comp.Cases 383] (*Ramirez*), the court of appeal observed that:

> Upon notice or knowledge of a claimed industrial injury an employer has both the right and *duty to investigate the facts* in order to determine his liability for workmen's compensation, but he must act with expedition in order to comply with the statutory provisions for the payment of compensation which require that he *take the initiative in providing benefits*. He must seasonably offer to an industrially injured employee that medical, surgical or hospital care which is reasonably required to cure or relieve from the effects of the industrial injury.

(*Ramirez, supra*, at p. 234, italics added.)

In *United States Cas. Co. v. Industrial Acc. Com*. (*Moynahan*) (1954) 122 Cal.App.2d 427, [19 Cal.Comp.Cases 8], the court similarly states:

> Section 4600 of the Labor Code places the responsibility for medical expenses upon the employer when he has knowledge of the injury….The duty imposed upon an employer who has notice of an injury to an employee is not … the passive one of reimbursement but the active one of offering aid in advance and of making whatever investigation is necessary to determine the extent of his obligation and the needs of the employee.

(*Moynahan, supra*, at p. 435.)

In *Neri Hernandez v. Geneva Staffing, Inc. dba Workforce Outsourcing, Inc.* (2014) 79 Cal.Comp.Cases 682 (Appeals Board en banc) (*Neri Hernandez*), we reiterated that "when an employer receives other notice that home health care services may be needed or are being provided, an employer has a duty under section 4600 to investigate." (*Neri Hernandez, supra*, at p. 695; see

also *Braewood Convalescent Hosp. v. Workers' Comp. Appeals Bd*. (*Bolton*) (1983) 34 Cal.3d 59, 165 [193 Cal. Rptr. 157, 666 P.2d 14, 48 Cal.Comp.Cases 566] (*Braewood Convalescent Hosp*.).)

We also observe that defendant has a regulatory duty to conduct a reasonable and good faith investigation to determine whether benefits are due. Specifically, Administrative Director Rule 10109 provides, in relevant part:

> (a) [A] claims administrator must conduct a reasonable and timely investigation upon receiving notice or knowledge of an injury or claim for a workers' compensation benefit.
>
> (b) A reasonable investigation must attempt to obtain the information needed to determine and timely provide each benefit, if any, which may be due the employee.
>
> > (1) The administrator may not restrict its investigation to preparing objections or defenses to a claim, but must fully and fairly gather the pertinent information ... The investigation must supply the information needed to provide timely benefits and to document for audit the administrator's basis for its claims decisions. The claimant's burden of proof before the Appeal Board does not excuse the administrator's duty to investigate the claim.
> >
> > (2) The claims administrator may not restrict its investigation to the specific benefit claimed if the nature of the claim suggests that other benefits might also be due.
>
> (c) The duty to investigate requires further investigation if the claims administrator receives later information, not covered in an earlier investigation, which might affect benefits due.
>
> …
>
> (e) Insurers, self-insured employers and third-party administrations shall deal fairly and in good faith with all claimants, including lien claimants.

(Cal. Code Regs., tit. 8, § 10109.)

Thus, and upon reasonable notice of the need to treatment necessary to cure or relieve from the effects of industrial injury, the employer has an affirmative obligation to promptly investigate the facts in order to determine its liability for workers' compensation and take the initiative in providing benefits. (*Ramirez, supra,* 10 Cal.App.3d at p. 234.) The duty to seasonably investigate

is triggered upon notice that home care or home modification services may be needed or are being provided. (*Neri Hernandez, supra,* 79 Cal.Comp.Cases at p. 695.)

Moreover, as we discussed in *Neri Hernandez*, *supra,* even when a request for treatment may be ambiguous, the employer may not "passively sit by, an employer also has a regulatory duty to conduct a reasonable and good faith investigation to determine whether benefits are due." (*Neri Hernandez, supra*, 79 Cal.Comp.Cases at pp. 693-694; see also *Romano Trust v. Kroger Co.* (April 16, 2013, ADJ1372133 (VNO 0488219)) [2013 Cal. Wrk. Comp. P.D. LEXIS 125].)

Here, we must consider the extent of the defendant's affirmative obligations to investigate applicant's need for care, especially in light of the undisputed determination that applicant's injuries now require that applicant utilize a wheelchair. We must further determine the extent to which the existing evidentiary record will allow for a complete and reasoned determination of the issue of the need for the requested 120-day stay in ADA-accessible accommodations.

We further observe that under the auspices of California's workers' compensation system, questions relating to the medical necessity of a treatment requested by a physician are decided through compulsory UR and IMR processes. Section 4610 requires that employers establish a UR process. (Lab. Code, § 4610; *State Comp. Ins. Fund v. Workers' Comp. Appeals Bd.* (*Sandhagen*) (2008) 44 Cal.4th 230, 241 ("*Sandhagen*").) Once a treating physician submits an RFA to an employer, the employer must either approve the treatment request or dispute the treatment request and submit the matter for review. When an employer chooses to challenge a treatment request, a UR physician will evaluate whether the requested treatment is "*medically necessary*," and will either: (1) approve; (2) modify; or (3) deny the requested medical treatment. (Lab. Code, § 4610, subds. (a), (c), (e) & (g)(4).) UR must be accomplished within strict time limits. (*Id.*; see *Dubon v. World Restoration* ("*Dubon*") (2014) 79 Cal.Comp.Cases 1298, 1306 (Appeals Board en banc).)

If a UR decision does not fully approve a treatment request, and the employee wishes to appeal the decision, the dispute "shall be resolved in accordance with Section 4610.5, if applicable…." (Lab. Code, § 4610.5, subd. (i)(4)(B)[2].) The term "disputed medical treatment" is itself limited to questions of "medical treatment that has been modified or denied by a utilization review decision on the basis of *medical necessity*." (Lab. Code, § 4610.5, subd. (c)(1), italics

[2] Section 4610.5, subd. (a), describes the IMR process applicable to "any dispute over a utilization review decision regarding treatment," while subdivision (b) mandates that any "dispute described in subdivision (a) shall be resolved only in accordance with this section." (Lab. Code, § 4610.5, subd. (a), (b).)

added.) Sections 4610.5 and 4610.6 expressly limit the role of an IMR physician to evaluating the "*medical necessity*" of the proposed treatment. (Lab. Code, §§ 4610.5(c)(2) & (3), (k); 4610.6(a), (c) & (e).) Accordingly, the purpose of the UR and IMR processes is to evaluate and resolve questions of medical necessity.[3]

The jurisdiction of the Appeals Board over medical treatment disputes arising under California's workers' compensation system is provided by sections 4604 and 5304. Section 5304 states in pertinent part that "[t]he appeals board has jurisdiction over any controversy relating to or arising out of Sections 4600 to 4605…." (Lab. Code, § 5304; see §§ 5300, 5301.) Section 4604 provides that "[c]ontroversies between employer and employee arising under this chapter shall be determined by the appeals board, upon the request of either party, except as otherwise provided by Section 4610.5." (Lab. Code, § 4604.)

Pursuant to section 4610.5, IMR is the exclusive remedy for an employee challenging a valid, timely UR determination. (Lab. Code, § 4610.5, subd. (a).) Section 4610.5 provides for review of disputes by IMR when UR has modified or denied the medical treatment request as not medically necessary. UR decisions validly obtained in compliance with section 4610 will trigger the IMR process of section 4610.5, in which case jurisdiction over the controversy rests solely with the IMR process.

In contrast, when the underlying UR decision is not validly obtained or is not timely pursuant to section 4610, there is no basis upon which to trigger the IMR process of section 4610.5. By its own terms, an employee may only invoke IMR when "a utilization review decision denies or modifies a treatment recommendation based on medical necessity." (Lab. Code, § 4610, subd. (d).) If there is no valid UR decision, there is no basis upon which to invoke IMR. In the absence of a controversy subject to section 4610.5, jurisdiction over medical treatment issues rests with the Appeals Board. (Lab. Code, § 4604.)

Sections 5304 and 4604 vest the Appeals Board with the requisite jurisdiction to determine these underlying issues. In order to trigger the UR and IMR processes of sections 4610, 4610.5 and 4610.6, the underlying RFA must present an unresolved question of medical necessity. The Appeals Board is authorized to make an initial factual inquiry into whether the factual

[3] These provisions of sections 4610.5 and 4610.6 are consistent with uncodified section 1(e) of SB 863, which declares a legislative intent "[t]hat having medical professionals ultimately determine the necessity of requested treatment furthers the social policy of this state.…" (Stats. 2013, ch. 363, § 1(e).)

circumstances underlying an RFA and the resulting medical dispute gave rise to a valid, timely UR determination.

In addition, the Appeals Board always retains the jurisdiction in the first instance necessary to determine whether it may appropriately exercise jurisdiction over a particular controversy. (*Scott v. I.A.C.* (1937) 9 Cal.2d 315; *Sea World Corp. v. Superior Court* (1973) 34 Cal.App.3d 494.)

In this case, the physician conducting the March 26, 2025 IMR decision opined that "[t]he medical necessity of the request for Americans with disabilities act (ADA) housing cannot be determined under Labor Code section 4610.5(c)(2)." (Ex. D, IMR Determination Letter, dated March 26, 2025, at p. 3.) Thus, we must consider whether the matter is subject to the exclusive jurisdiction of the IMR process under section 4610.5 and 4610.6, or whether the Appeals Board retains the baseline jurisdiction to hear and decide this matter pursuant to section 4604.

Decisions of the Appeals Board "must be based on admitted evidence in the record." (*Hamilton v. Lockheed Corporation* (*Hamilton*) (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Board en banc).) An adequate and complete record is necessary to understand the basis for the WCJ's decision. (Lab. Code, § 5313.) "It is the responsibility of the parties and the WCJ to ensure that the record is complete when a case is submitted for decision on the record. At a minimum, the record must contain, in properly organized form, the issues submitted for decision, the admissions and stipulations of the parties, and admitted evidence." (*Hamilton, supra,* 66 Cal.Comp.Cases at p. 475.) The WCJ's decision must "set[] forth clearly and concisely the reasons for the decision made on each issue, and the evidence relied on," so that "the parties, and the Board if reconsideration is sought, [can] ascertain the basis for the decision[.] . . . For the opinion on decision to be meaningful, the WCJ must refer with specificity to an adequate and completely developed record." (*Id.* at p. 476 (citing *Evans v. Workmen's Comp. Appeals Bd*. (1968) 68 Cal.2d 753, 755 [33 Cal.Comp.Cases 350]).)

Additionally, the WCJ and the Appeals Board have a duty to further develop the record where there is insufficient evidence on an issue. (*McClune v. Workers' Comp. Appeals Bd.* (1998) 62 Cal.App.4th 1117, 1121-1122 [63 Cal.Comp.Cases 261].) The Appeals Board has a constitutional mandate to "ensure substantial justice in all cases." (*Kuykendall v. Workers' Comp. Appeals Bd*. (2000) 79 Cal.App.4th 396, 403 [65 Cal.Comp.Cases 264].) The Board may not leave matters undeveloped where it is clear that additional discovery is needed. (*Id*. at p. 404.) Here,

based on our preliminary review, it appears that further development of the record may be appropriate.

III.

In addition, under our broad grant of authority, our jurisdiction over this matter is continuing.

A grant of reconsideration has the effect of causing "the whole subject matter [to be] reopened for further consideration and determination" (*Great Western Power Co. v. Industrial Acc. Com*. (*Savercool*) (1923) 191 Cal.724, 729 [10 I.A.C. 322]) and of "[throwing] the entire record open for review." (*State Comp. Ins. Fund v. Industrial Acc. Com*. (*George*) (1954) 125 Cal.App.2d 201, 203 [19 Cal.Comp.Cases 98].) Thus, once reconsideration has been granted, the Appeals Board has the full power to make new and different findings on issues presented for determination at the trial level, even with respect to issues not raised in the petition for reconsideration before it. (See Lab. Code, §§ 5907, 5908, 5908.5; see also *Gonzales v. Industrial Acci*. *Com*. (1958) 50 Cal.2d 360, 364.) ["[t]here is no provision in chapter 7, dealing with proceedings for reconsideration and judicial review, limiting the time within which the commission may make its decision on reconsideration, and in the absence of a statutory authority limitation none will be implied."]; see generally Lab. Code, § 5803 ["The WCAB has continuing jurisdiction over its orders, decisions, and awards. . . . At any time, upon notice and after an opportunity to be heard is given to the parties in interest, the appeals board may rescind, alter, or amend any order, decision, or award, good cause appearing therefor.].)

"The WCAB . . . is a constitutional court; hence, its final decisions are given res judicata effect." (*Azadigian v. Workers' Comp. Appeals Bd*. (1992) 7 Cal.App.4th 372, 374 [57 Cal.Comp.Cases 391; see *Dow Chemical Co. v. Workmen's Comp. App. Bd*. (1967) 67 Cal.2d 483, 491 [32 Cal.Comp.Cases 431]; *Dakins v. Board of Pension Commissioners* (1982) 134 Cal.App.3d 374, 381 [184 Cal.Rptr. 576]; *Solari v. Atlas-Universal Service, Inc.* (1963) 215 Cal.App.2d 587, 593 [30 Cal.Rptr. 407].) A "final" order has been defined as one that either "determines any substantive right or liability of those involved in the case" (*Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1180; *Safeway Stores, Inc. v. Workers' Comp*. *Appeals Bd.* (*Pointer*) (1980) 104 Cal.App.3d 528, 534-535 [45 Cal.Comp.Cases 410]; *Kaiser Foundation Hospitals v. Workers' Comp. Appeals Bd*. (*Kramer*) (1978) 82 Cal.App.3d 39, 45 [43 Cal.Comp.Cases 661]), or determines a "threshold"

issue that is fundamental to the claim for benefits. Interlocutory procedural or evidentiary decisions, entered in the midst of the workers' compensation proceedings, are not considered "final" orders. (*Maranian v. Workers' Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1070, 1075 [65 Cal.Comp.Cases 650].) ["interim orders, which do not decide a threshold issue, such as intermediate procedural or evidentiary decisions, are not 'final' "]; *Rymer, supra,* at p. 1180 ["[t]he term ['final'] does not include intermediate procedural orders or discovery orders"]; *Kramer, supra*, at p. 45 ["[t]he term ['final'] does not include intermediate procedural orders"].)

Labor Code section 5901 states in relevant part that:

> No cause of action arising out of any final order, decision or award made and filed by the appeals board or a workers' compensation judge shall accrue in any court to any person until and unless the appeals board on its own motion sets aside the final order, decision, or award and removes the proceeding to itself or if the person files a petition for reconsideration, and the reconsideration is granted or denied. …

Thus, this is not a final decision on the merits of the Petition for Reconsideration, and we will order that issuance of the final decision after reconsideration is deferred. Once a final decision is issued by the Appeals Board, any aggrieved person may timely seek a writ of review pursuant to Labor Code sections 5950 et seq.

IV.

Accordingly, we grant applicant's Petition for Reconsideration, and order that a final decision after reconsideration is deferred pending further review of the merits of the Petition for Reconsideration and further consideration of the entire record in light of the applicable statutory and decisional law.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Reconsideration of the Findings and Order issued by a workers' compensation administrative law judge on April 14, 2026 is **GRANTED**.

IT IS FURTHER ORDERED that a final decision after reconsideration is **DEFERRED** pending further review of the merits of the Petition for Reconsideration and further consideration of the entire record in light of the applicable statutory and decisional law.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ JOSEPH V. CAPURRO, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

June 25, 2026

SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.

CHARLEY BASKETT
HIDEN, ROTT & OERTLE
LAW OFFICES OF SCHLOSSBERG & UMHOLTZ

SAR/abs

I certify that I affixed the official seal of the Workers' Compensation Appeals Board to this original decision on this date. *abs*